

## SUPPRESSION OF SMUGGLING

*Convention signed at Havana March 11, 1926*

*Senate advice and consent to ratification April 16, 1926*

*Ratified by the President of the United States April 20, 1926*

*Ratified by Cuba June 17, 1926*

*Ratifications exchanged at Havana June 18, 1926*

*Proclaimed by the President of the United States June 19, 1926*

*Entered into force June 28, 1926*

44 Stat. 2402; Treaty Series 739

### CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CUBA FOR THE SUPPRESSION OF SMUGGLING OPERATIONS BETWEEN THEIR RESPECTIVE TERRITORIES

The United States of America and the Republic of Cuba, being desirous of aiding each other in the suppression of smuggling from the territory of one state to the other, have agreed to enter into the present Convention and for this purpose have appointed as their respective plenipotentiaries:

The President of the United States of America, Mr. Enoch H. Crowder, Ambassador Extraordinary and Plenipotentiary of the United States of America in Cuba, and

The President of the Republic of Cuba, Mr. Carlos Manuel de Céspedes y de Quesada, Secretary of State of the Republic of Cuba,

Who, having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon the following articles:

#### ARTICLE I

The High Contracting Parties agree to aid each other mutually in the manner provided in this Convention in the prevention, discovery and punishment of violations of their respective laws, decrees or regulations with respect to the importation of narcotics, intoxicating liquors and other merchandise and the entry and departure of aliens.

#### ARTICLE II

The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to

a port of entry of the other country, shall be denied when such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries.

The High Contracting Parties likewise bind themselves to prevent by all means possible, in accordance with the laws of their respective countries, the clearance of any vessel or vehicle laden with merchandise or having on board aliens destined to any port or place, when it is evident by reason of the tonnage, size, type of vessel, or vehicle, length of the voyage, perils or conditions of navigation or transportation, that it is impossible for it to transport said merchandise or persons to the place of destination mentioned in the request for clearance, or when the repetition of alleged accidents in prior voyages or the antecedents of or information concerning the vessel or vehicle furnish evidence that said merchandise or any part of the same or any person, whatever the ostensible point of destination thereof might be, is intended to be illegally introduced into the territory of the other High Contracting Party.

When one of the High Contracting Parties gives notice to the other that it suspects that a specified vessel in a port of the other High Contracting Party, although ostensibly destined to a port in a third country, is likely to attempt to introduce unlawfully into its territory merchandise or persons whose entry is prohibited or restricted, the other High Contracting Party shall require from the master or person in charge of the vessel—in accordance with the laws in force in the respective countries and such additional arrangements as may be agreed upon and incorporated in regulations by the appropriate authorities of the High Contracting Parties—a bond to produce a duly authenticated landing certificate showing such merchandise or persons actually to have been discharged at the port for which the vessel cleared. If any such vessel fails to produce the certificate in proof of lawful discharge of such merchandise or persons or produces a false certificate or evidence the bond shall be forfeited and thereafter for a period of five years the vessel shall be denied the right to enter or clear from any port of either of the High Contracting Parties with merchandise or persons of the same nature.

### ARTICLE III

The High Contracting Parties agree to employ all reasonable measures—in accordance with the laws of their respective countries—to prevent the departure of persons destined to the territory of either of them who do not effect such departure through the ports of departure and are not destined to a port of entry in the other country.

Persons who are not nationals of either of the High Contracting Parties and who, coming from the territory of one of them, have attempted to enter

unlawfully into the territory of the other and are returned to the territory of the High Contracting Party from which they proceeded, shall be returned in accordance with the laws in force in the country from which they are returned and such additional arrangements as may be agreed upon or incorporated in regulations by the appropriate authorities of the High Contracting Parties in order that such persons may be deported to the country of their origin.

#### ARTICLE IV

Each of the High Contracting Parties agrees with the other that property of all kinds in its possession which, having been stolen in the territory of the other and brought into its territory, is seized by its customs authorities, shall, when the owners are nationals of the other country, be returned to such owners, subject to satisfactory proof of such ownership and the absence of any collusion, and subject moreover to payment of the expenses of the seizure and detention and to the abandonment of any claims by the owners against the customs or the customs officers, warehousemen or agents, for compensation or damages for the seizure, detention, warehousing or keeping of the property.

#### ARTICLE V

The High Contracting Parties mutually agree that they will exchange or furnish when requested information concerning:

- (a) The transportation of cargoes or the shipment of merchandise between said countries,
- (b) The names and activities of the persons or vessels which are known to be or suspected of being engaged in the violation of the laws, decrees and regulations mentioned in Article I of this Convention,
- (c) Persons leaving their territories who are destined to the territory of the other High Contracting Party or the activities of any persons in either country, when there are reasonable grounds to believe that said persons are engaged in unlawful migration activities or in conspiracies against the other Government or its institutions, when not incompatible with the public interest,
- (d) The existence and extent of contagious and infectious diseases of persons, animals, birds, or plants, and the ravages of insect pests and the measures being taken to prevent their spreading, and
- (e) The study and use of the most effective scientific and administrative methods for the suppression and eradication of said diseases and insect pests.

#### ARTICLE VI

The officials of the High Contracting Parties whose duty it may be to prevent or report the violation of the laws, decrees and regulations mentioned in Article I of this Convention are obliged, as soon as they have knowledge of preparations to smuggle or that smuggling has been effected, to do every-

thing possible to prevent the same through all the means within their power in the first case, and to bring the matter to the attention of the proper authorities of their own country, in either of the two circumstances.

The appropriate authorities of each of the High Contracting Parties shall notify the appropriate authorities of the other High Contracting Party of violations of the laws, decrees and regulations mentioned in Article I of this Convention which have been communicated to them relative to attempts at smuggling or actual smuggling, and will furnish all information which they may have been able to gather with regard to the facts and circumstances thereof.

Such notification and information may be furnished and received only by appropriate officials who shall be designated by the respective Governments.

#### ARTICLE VII

It is agreed that the customs and other administrative officials of the respective governments of the United States of America and of the Republic of Cuba shall upon request be directed to attend as witnesses before the courts in the other country and to produce such available records and files or certified copies thereof as may be considered essential to the trial of civil or criminal cases arising out of violation of the laws, decrees or regulations mentioned in Article I of this Convention and as may be produced compatibly with the public interest. It shall be considered in these cases that they appear as agents of their respective governments, to inform the courts on matters upon which questioned, and when they so appear their character as such agents shall be recognized. Original records or documents produced by said officials shall not be retained by the courts, but legal copies thereof may be taken if necessary.

The cost of transcripts of records, depositions, certificates and letters rogatory in civil or criminal cases, and the cost of first-class transportation both ways, maintenance and other proper expenses involved in the attendance of such witnesses shall be paid by the nation requesting their attendance at the time of their discharge by the court from further attendance at such trial. Letters rogatory and commissions shall be executed with all possible despatch and copies of official records or documents shall be certified promptly by the appropriate officials in accordance with the provisions of the laws of the respective countries.

#### ARTICLE VIII

This Convention shall be ratified, and the ratifications shall be exchanged in the City of Havana as soon as possible. The Convention shall come into effect at the expiration of ten days from the date of the exchange of ratifications, and it shall remain in force for one year. If upon the expiration of one year no notice is given by either party of a desire to terminate the same, it shall

continue in force until thirty days after either party shall have given notice to the other of a desire to terminate it.

In witness whereof, the Plenipotentiaries above mentioned have signed the two originals of the present Convention and have affixed their respective seals thereto.

Done in two copies of the same text and legal force in the English and Spanish languages in the City of Habana, this eleventh day of March in the year one thousand nine hundred and twenty-six.

ENOCH H. CROWDER

[SEAL]

CARLOS MANUEL DE CÉSPEDES

[SEAL]